



Commonwealth of Kentucky

MASTER AGREEMENT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: REVENUE GENERATING - Scrap Metal Recycling D-11			
Doc ID No: MA 605 1300000375 1		Proc Folder: 2606445	
Procurement Type: Standard Services			
Effective Date: 2012-09-18	Expiration Date: 2013-08-31	Not To Exceed Amount	
Administered By: DARRELL BURKS		Cited Authority: FAP111-35-00-S	
Telephone: 502-564-4556		Issued By: LINDA SHINN	
VENDOR FREEDOM METALS RECYCLING INC 1225 S 15TH ST LOUISVILLE KY 40210 US			

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	Scrap Metal - KYTC District 11	0	0.00	GT	0.00000	0.00	0.00

Extended Description

Vendor Rep: Bud Webster
 Phone: 502-637-7657
 Email: bud@freedommetals.com

Vendor agrees to pay the Commonwealth of Kentucky \$75.00 per gross ton (2240 pounds) less than the AMM Chicago No. 1 Heavy Melt price for all other scrap metal F.O.B. delivered to vendor's designated location. See example below:

EXAMPLE:

Current AMM Chicago No. 1 HM price is \$300.00/gross ton.
 Bidder is willing to pay Commonwealth of Kentucky \$200.00/gross ton based on current Chicago price.
 Bidder would submit a bid of \$100.00 which is the amount less than the daily AMM Chicago price.

Other scrap metal bid prices shall be the amount offered by vendor subtracted from the daily Chicago Market Price. Vendor shall provide a copy of the current AMM Consumer Buying Prices for No. 1 Heavy Melt (Chicago), along with weight ticket of each load to the KYTC person making delivery.

All scrap metal should be free of any other debris (as possible), and should not contain batteries, air conditioners, refrigerators, or any materials that require disposal according to EPA regulations.

Vendor shall provide a receiving location/s for deliveries of recyclable scrap metals within the service area of KYTC District 11.

RECEIVING LOCATION

Eastern KY Recycling
 2525 S Highway 421
 Manchester KY 40962

Vendor shall submit monthly payments (payable to: Kentucky State Treasurer), weight tickets, and daily price sheets to the KYTC District 11 contact person listed below:

Phillip Howard

Extended Description

KYTC Dept. of Highways - Dist. 11
District Office
603 Railroad Avenue
Manchester, KY 40962
Phone: 606-598-2145

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
2	Scrap Aluminum - KYTC District 11	0	0.00	LB	0.00000	0.00	0.00

Extended Description

Vendor agrees to pay the Commonwealth of Kentucky \$0.06 per pound less than the daily AMM Aluminum price for Secondary Smelter's Aluminum Scrap, Old Sheet.

F.O.B. delivered to vendor's designated location. See example below:

EXAMPLE:

Current AMM Secondary Smelter's Aluminum price is \$0.60/pound.
Bidder is willing to pay Commonwealth of Kentucky \$0.40/pound based on current price.
Bidder would submit a bid of \$0.20 which is the amount less than the daily AMM price.

Aluminum bid prices shall be the amount subtracted from the daily AMM Aluminum Price for Secondary Smelter's Aluminum Scrap, Old Sheet. Vendor shall provide a copy of the current AMM Aluminum Prices, along with weight ticket of each load to the KYTC employee at time of delivery.

All scrap aluminum should be free of any other debris (as possible), and should not contain batteries, air conditioners, refrigerators, or any materials that require disposal according to EPA regulations.

Vendor shall provide a receiving location/s for deliveries of recyclable scrap metals within the service area of KYTC District 11.

RECEIVING LOCATION

Eastern KY Recycling
2525 S Highway 421
Manchester KY 40962

Vendor shall submit monthly payments (payable to: Kentucky State Treasurer), weight tickets, and daily price sheets to the KYTC District 11 contact person listed below:

Phillip Howard
KYTC Dept. of Highways - Dist. 11
District Office
603 Railroad Avenue
Manchester, KY 40962
Phone: 606-598-2145

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Section 1—Specifications or Scope of Work

The purpose of this solicitation is to award contracts for the sale of KYTC scrap metal and scrap aluminum. KYTC has no historical data to estimate the quantities. Quantities will vary.

Vendors should provide the physical address of each receiving location bid and include it in the bid package.

1.00—Specifications of Commodity and/or Service Requirements

The Department shall separate aluminum from all other scrap metal and deliver each type of material via Department's trucks to vendor's location. Aluminum shall not be co-mingled with other metals. KYTC personnel shall follow procedures relating to scrap metal as outlined in the Cabinet's Policy and Procedures Manual.

Vendor shall provide state certified scales for weighing Department's truck and metal at the vendor's designated location. All expenses associated with determining weight of recyclable materials shall be borne by vendor.

Contractor shall comply with all city, county, state, and federal laws and regulations and secure any and all permits and licenses that may be required.

Section 2—Terms and Conditions of the Master Agreement

2.00—Scope of the Contract

The KYTC Division of Purchases issues this Master Agreement for Scrap Metal Recycling.

2.01—Contract Components and Order of Precedence

The Commonwealth's acceptance of the offer indicated by the issuance of an Award by the KYTC Division of Purchases shall create a valid Master Agreement consisting of the following:

1. The written Master Agreement between the Parties;
2. Any Addenda to the Solicitation;
3. Any provisions of the Solicitation and all attachments thereto;
4. The Bidder's response to the Solicitation, and
5. The Kentucky Revised Statutes KRS 45A.

2.02—Initial Contract Period

The Master Agreement will be effective upon award and expire 8/31/13.

2.03—Optional Renewal Period

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This Master Agreement may be extended at the completion of the initial contract period for **4** additional one-year periods. This extension must have the written approval of the vendor and the KYTC Division of Purchases. The Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. The vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

2.04—Divisions/Agencies to Be Served

This contract shall be for use by the following Divisions/Agencies of the Kentucky Transportation Cabinet:

Department of Highways (Locations as stated in line items.)

2.05—Quantity Basis of Contract

This Master Agreement has no guarantee of any specific quantity, and the State is obligated only to sell that quantity which is needed by its agencies.

2.06—Exception to Required Use of Contract

The establishment of this Master Agreement is not intended to preclude the use of similar products or services when requested by the agency. The Commonwealth of Kentucky reserves the right to dispose of large quantity requirements through other competitive processes.

2.07—Basis of Pricing

PRICE ADJUSTMENTS: The pricing established for this Master Agreement shall be firm for the contract period and is based upon the identified material index as noted on the line items. Any change to this method would require a contract modification.

2.08—Addition or Deletion of Items or Services

The KYTC Division of Purchases reserves the right to add new and similar items, with the consent of the vendor, to the contract. If an addition is agreeable to both parties, the KYTC Division of Purchases will issue a Modification. Until such time as the vendor receives a Modification, the vendor shall not accept Delivery Orders from any agency referencing such items or services.

2.09—Changes and Modifications to the Contract

No modification or change of any provision in the Master Agreement shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Vendor and the KYTC Division of Purchases, and incorporated as a modification to the contract prior to the effective date of such modification or change pursuant to KRS 45A.210.

If the vendor believes modifications are necessary, he/she may request approval of the KYTC Division of Purchases. All contract modifications shall be subject to the provisions of 200 KAR 5:311.

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2.10—Notices

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Master Agreement shall be in writing.

After the Award, all programmatic communications are to be made to the Agency Contact Person listed in each line item with a copy to the Division of Purchases buyer listed below:

Linda Shinn
Division of Purchases
Kentucky Transportation Cabinet
Phone: 502-564-4630
E-mail: Linda.Shinn@ky.gov

After the Award, all communications of a contractual or legal nature are to be made to the KYTC Division of Purchases.

2.11—Material Delivery

All scrap material (aluminum and other metals) should be clear of any debris (as feasible) and should not contain any batteries, air conditioners, refrigerators, or any material that requires disposal according to EPA regulations.

There will be one contact person per district and that person shall serve as liaison between the Department and the vendor. The contact person shall be responsible for determining what is considered scrap. Another contact person will be named if the designated contact person cannot continue to serve in such capacity. The Transportation Cabinet, vendor, and the Division of Maintenance shall be notified of any changes.

Delivery of scrap metal shall be made available Monday – Friday to vendor's location/s. Vendor's days of business closure (such as holidays and special occasions) shall be provided to KYTC designated contact person.

All scrap material shall be weighed at a designated certified scale. Vendor shall provide, KYTC employee making delivery, a copy of the weight ticket and a current copy of the AMM Chicago Market Price on the date of delivery.

See individual line items for additional requirements.

2.12—Service Performance

All services performed under contract shall be in accordance with the terms and conditions of the contract. It will be the agency's responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely

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responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

Major deviations of services performed will not be made without the written approval of the KYTC Division of Purchases. Problems that arise under any aspect of performance should first be resolved between the vendor and the agency. If such problems and/or disagreements cannot be resolved they should be referred to the KYTC Division of Purchases for settlement.

2.13—Invoices

Invoices and payment shall be prepared and transmitted to the agency that provided scrap metal. Payments shall contain, at a minimum, the following information: Contract number, description of material, weight tickets, unit prices for material on the date of delivery, and extended totals.

2.14—Payments

The vendor shall make payments to KYTC and submit proper documentation (see line item) to the receiving agency at the prices stipulated for the scrap material.

The vendor shall submit payment each month along with a legible copy of all weight tickets from a certified scale for each delivery and the corresponding AMM Chicago Market Price List identified for the date of each delivery. A check made payable to the "Kentucky State Treasurer" shall accompany all supporting documents. All payments and documentation shall be sent to the designated KYTC Department of Highways District Office or designated person and location for processing and review. The District Office shall process receipt of payment according to the Cabinet's Policy and Procedures Manual.

2.15—Post Contract Agreements

The Master Agreement shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this contract. The Commonwealth shall not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of the contract. Any such documents so obtained will be non-binding on the State and be cause for breach of contract.

2.16—Subcontracts

Unless otherwise specified, the vendor shall not contract with any other party for furnishing any of the services contracted herein. If the KYTC Division of Purchases is provided evidence of the vendor making such an arrangement, the contract shall be immediately cancelled. This provision will not be taken as requiring the approval of contracts of employment between the vendor and their personnel.

2.17—Assignment

The vendor shall not assign this Master Agreement in whole or in part to another vendor at any time during the initial or optional renewal terms of the contract, without the consent, guidance and approval of the Commonwealth. Any assignment hereunder entered into, subsequent to the execution of the contract with the prime vendor, must be annotated and approved by the Commonwealth. Any purported assignment without this consent shall be null and void.

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2.18—Cancellation

The Cabinet shall have the right to terminate and cancel this agreement at any time upon thirty (30) days written notice served on the contractor by registered or certified mail outlining the reasons for the cancellation.

2.19—Termination of Contracts

A contract may be terminated for default by the vendor, for the convenience of the Commonwealth, or for lack of appropriation in accordance with 200 KAR 5:312.

2.20—Advertising Award

The vendor shall not refer to the Award in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky.

2.21—Kentucky Sales and Use Taxes

Sales of tangible personal property or services to the State of Kentucky and its agencies are not subject to state sales or use taxes.

2.22—Extension Period

This contract may be extended at the termination of all contract renewal periods for additional time not to exceed **90 days**. This extension must be accompanied by the written approval of the vendor and the Division of Purchases

2.23— Registration with the Secretary of State by a Foreign Entity

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by [KRS 14A.9-010](#) to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under [KRS 14A.9-030](#) unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in [KRS 14A.9-010](#), the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within [KRS 14A.1-070](#).

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity's solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx>

2.24—Access to Records

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and

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Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

In the event of a dispute between the contractor and the contracting agency, Attorney General, or the Auditor of Public Accounts over documents that are eligible for production and review, the Finance and Administration Cabinet shall review the dispute and issue a determination, in accordance with Secretary's Order 11-004. (See attachment)

2.25-Governmental Restrictions

In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items on this master agreement prior to delivery, it shall be the responsibility of the vendor to notify the Division of Transportation Purchases in writing, indicating the specific regulation which requires such alterations. The Commonwealth reserves the right to accept any such alterations, including any subsequent price adjustments, or to cancel the contract.

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SECRETARY'S ORDER 11-004

FINANCE AND ADMINISTRATION CABINET

Vendor Document Disclosure

WHEREAS, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary to conduct a review of the records of a private vendor that holds a contract to provide goods and/or services to the Commonwealth; and

WHEREAS, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary during the course of an audit, investigation or any other inquiry by an Executive Branch agency that involves the review of documents; and

WHEREAS, KRS 42.014 and KRS 12.270 authorizes the Secretary of the Finance and Administration Cabinet to establish the internal organization and assignment of functions which are not established by statute relating to the Finance and Administration Cabinet; further, KRS Chapter 45A.050 and 45A.230 authorizes the Secretary of the Finance and Administration Cabinet to procure, manage and control all supplies and services that are procured by the Commonwealth and to intervene in controversies among vendors and state agencies; and

NOW, THEREFORE, pursuant to the authority vested in me by KRS 42.014, KRS 12.270, KRS 45A.050, and 45A.230, I, Lori H. Flanery, Secretary of the Finance and Administration Cabinet, do hereby order and direct the following:

- I. Upon the request of an Executive Branch agency, the Finance and Administration Cabinet ("FAC") shall formally review any dispute arising where the agency has requested documents from a private vendor that holds a state contract and the vendor has refused access to said documents under a claim that said documents are not directly pertinent or relevant to the agency's inquiry upon which the document request was predicated.
- II. Upon the request of an Executive Branch agency, the FAC shall formally review any situation where the agency has requested documents that the agency deems necessary to conduct audits, investigations or any other formal inquiry where a dispute has arisen as to what documents are necessary to conclude the inquiry.
- III. Upon receipt of a request by a state agency pursuant to Sections I & II, the FAC shall consider the request from the Executive Branch agency and the position of the vendor or party opposing the disclosure of the documents, applying any and all relevant law to the facts and circumstances of the matter in controversy. After FAC's review is complete, FAC shall issue a Determination which sets out FAC's position as to what documents and/or records, if any, should be disclosed to the requesting agency. The Determination shall be issued within 30 days of receipt of the request from the agency. This time period may be extended for good cause.

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- IV. If the Determination concludes that documents are being wrongfully withheld by the private vendor or other party opposing the disclosure from the state agency, the private vendor shall immediately comply with the FAC's Determination. Should the private vendor or other party refuse to comply with FAC's Determination, then the FAC, in concert with the requesting agency, shall effectuate any and all options that it possesses to obtain the documents in question, including, but not limited to, jointly initiating an action in the appropriate court for relief.
- V. Any provisions of any prior Order that conflicts with the provisions of this Order shall be deemed null and void.